

Senate Bill 175

By: Senators Black of the 8th, Hufstetler of the 52nd, Robertson of the 29th, Hill of the 4th, Davenport of the 44th and others

**AS PASSED SENATE**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated,  
2 relating to retirement allowances, disability benefits, and spouses' benefits, so as to require  
3 certain public employers to make employer and employee contributions to the Teachers  
4 Retirement System of Georgia for employed beneficiaries; to provide for related matters; to  
5 repeal conflicting laws; and for other purposes.

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Article 7 of Chapter 3 of Title 47 of the Official Code of Georgia Annotated, relating to  
9 retirement allowances, disability benefits, and spouses' benefits, is amended by revising Code  
10 Section 47-3-127, relating to effect of restoration to service on retirement allowances and  
11 creditable service after restoration to service, and by adding two new Code sections to read  
12 as follows:

13 "47-3-127.

14 (a) If, except as provided in Code Section 47-3-127.1, a beneficiary is restored to service  
15 as a teacher, he or she may elect:

16 (1) Cessation of his or her retirement allowance, in which case he or she shall again  
17 become a contributing member of the retirement system and be governed by the  
18 retirement provisions of this chapter; or

19 (2) Not to reinstate his or her membership in the retirement system, in which case his or  
20 her retirement benefits shall be suspended during the period of time he or she is restored  
21 to service. Upon cessation of such service, his or her prior retirement allowance shall be  
22 resumed.

23 If the returning beneficiary fails to elect either choice, his or her status shall be as if he or  
24 she had elected paragraph (1) of this subsection.

25 (b)(1) Anything in this chapter to the contrary notwithstanding, any prior service  
26 certificate, on the basis of which a member's creditable service was computed at the time

27 of his or her retirement, shall be restored to full force and effect upon his or her  
28 restoration to service.

29 (2) Upon his such member's subsequent retirement he or she shall be credited with all  
30 his or her service as a member, including service contributing member of the retirement  
31 system rendered after his or her restoration to service.

32 (3) If he such member is restored to service on or after attaining age 50, his or her  
33 retirement benefits upon subsequent retirement shall not exceed the sum of the pension  
34 which he or she was receiving immediately prior to his or her last restoration to  
35 membership and the pension payable in respect to his or her subsequent service, except  
36 as provided in subsection (c) of this Code section, provided that if unless he or she:

37 (A) Has served at least two school years as a contributing member after restoration  
38 to service; and if he

39 (B) Reimburses reimburses the retirement system for any retirement benefits received  
40 from the retirement system during his or her retirement, plus regular interest, such  
41 person.

42 Thereupon, he or she shall receive credit for any prior creditable service; and upon  
43 subsequent retirement he shall be credited with all his or her service as a member, which  
44 service shall not be counted in determining his or her retirement benefits allowance upon  
45 his or her subsequent retirement. He shall not be without being limited to the retirement  
46 benefits allowance that he or she was receiving prior to his or her last restoration to  
47 membership in the retirement system.

48 (c) The retirement benefits payable to a beneficiary who retired prior to July 1, 1961, who  
49 was restored to service and who subsequently retired on or after July 1, 1961, shall be  
50 determined under the pension provisions in effect at the time of that subsequent retirement;  
51 provided that such member completed at least one year of creditable service subsequent to  
52 such restoration to service.

53 (d) Anything in this chapter to the contrary notwithstanding, a beneficiary may elect to  
54 return to service on an hourly basis as a classroom aide, provided such service is less than  
55 full time, or as a substitute teacher without reinstating his membership in the system. If  
56 such election is made, he shall continue to receive his retirement benefits and any  
57 postretirement benefit adjustments granted, if any, during such part-time service. Such  
58 part-time service shall not constitute creditable service and such beneficiary shall not be  
59 entitled to a recomputation of retirement benefits upon a cessation of part-time service.

60 (e)(1) A beneficiary of this retirement system shall be deemed to be restored to service  
61 within the meaning of this Code section if, except as otherwise provided in Code Section  
62 47-3-127.1, such beneficiary is employed by an employer:

63 (A) In a position previously held by a teacher; or

64       (B) In a capacity which would normally be held by a teacher, as determined by the  
65       board of trustees, whether employed directly or indirectly, for which the compensation  
66       is greater than the larger of:

67           (i) One-half one-half of the beneficiary's average annual compensation used to  
68       calculate his or her retirement benefit; or

69           (ii) The the beneficiary's final compensation at the time of his or her retirement,  
70       whichever is larger;

71       provided, however, that such amount prior compensation amounts shall be increased by  
72       any annual cost-of-living adjustment reflected in the state teacher salary schedule.

73       (2) If an employer employs a beneficiary in any manner specified in paragraph (1) of this  
74       subsection during the calendar month of the effective date of the beneficiary's retirement,  
75       the employer shall reimburse the retirement system for all benefits wrongly paid to the  
76       beneficiary.

77       (3) If an employer employs a beneficiary in any manner specified in paragraph (1) of this  
78       subsection any time after the last day of the calendar month of the effective date of the  
79       beneficiary's retirement, the employer shall:

80           (A) So so notify the board of trustees, stating the beneficiary's name, salary, number  
81       of hours, whether the beneficiary is employed as a teacher, and such other information  
82       as the board of trustees requests; and

83           (B) Reimburse the employer shall reimburse the retirement system for all benefits  
84       wrongly paid to the beneficiary.

85       (4)(A) It shall be the duty of a beneficiary of this retirement system to notify an  
86       employer of his or her status as a beneficiary prior to accepting employment with that  
87       employer.

88       (B) If a beneficiary fails to so notify an employer and as a result the employer becomes  
89       obligated to this retirement system pursuant to paragraph (2) or (3) of this subsection,  
90       the beneficiary shall be liable to the employer for any amount the employer is obligated  
91       to pay to this retirement system.

92       (5) If an employer who is obligated to this retirement system pursuant to paragraph (2)  
93       or (3) of this subsection fails to pay the amount due, such amount shall be deducted from  
94       any funds payable to the employer by the state, including without limitation the  
95       Department of Education and the board of regents, and paid to the board of trustees of  
96       this retirement system.

97       47-3-127.1.

98       (a) Notwithstanding anything in this chapter to the contrary, a beneficiary may elect to  
99       return to service without becoming a contributing member of the retirement system as a:

(1) Classroom aide who works less than full-time and is compensated on an hourly basis;

or

(2) Substitute teacher.

(b) Under the conditions described in subsection (a) of this Code section, he or she shall remain a beneficiary and continue to receive his or her retirement allowance and any postretirement benefit adjustments for which he or she is eligible.

(c) Such part-time service shall not constitute creditable service, and such beneficiary shall not be entitled to a recomputation of retirement benefits upon a cessation of such part-time service.

47-3-127.2.

(a) An employer that directly or indirectly remunerates a beneficiary who is not a contributing member of the retirement system shall pay to the retirement system an amount equal to the product of:

(1) The combination of the rate required by this chapter for employer contributions and employee contributions; and

(2) The remuneration made to such beneficiary.

(b) An individual shall not receive creditable service as a result of employment described in subsection (a) of this Code section, and he or she shall be considered by the retirement system solely as a beneficiary.

(c) It shall be the duty of each beneficiary to notify an employer of his or her status as a beneficiary prior to accepting employment with an employer.

(d) Within 30 days of an employer's employment of a beneficiary, such employer shall notify the board of trustees of such beneficiary's name, salary, number of hours, and such other information as the board of trustees may require.

(e) If an employer that is obligated to make contributions or reimbursements to the retirement system pursuant to this Code section does not make such contributions, unpaid amounts shall be deducted from any funds payable to the employer by the state, including without limitation the Department of Education and the board of regents, and paid to the retirement system."

## SECTION 2.

130 All laws and parts of laws in conflict with this Act are repealed.